

October 16, 2008

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
October 16, 2008

I. OPENING OF MEETING AT 9:12 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; Jan Oncken, Illinois Department of Central Management Services; and Dan Flanagan, Illinois Department of Employment Security.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD SEPTEMBER 18, 2008

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 5-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 18, 2008.

IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging	163.....	9
Agriculture	474.....	16
Arts Council.....	20.....	2
Capitol Development Board	36.....	0
Central Management Services	1,482.....	107
Children and Family Services	3,214.....	49
Civil Service Commission	4.....	0
Commerce & Economic Opportunity	412.....	67
Commerce Commission.....	68.....	0
Corrections.....	11,514.....	115
Criminal Justice Authority	55.....	6
Deaf and Hard of Hearing Comm.	6.....	1
Developmental Disabilities Council	10.....	1
Emergency Management Agency	93.....	5
Employment Security.....	1,721.....	25
Environmental Protection Agency	991.....	19
Financial & Professional Regulation	747.....	50
Guardianship and Advocacy	108.....	8
Healthcare and Family Services.....	2,512.....	29
Historic Preservation Agency	247.....	12
Human Rights Commission	12.....	2
Human Rights Department	153.....	10
Human Services	14,671.....	75
Investment Board.....	4.....	2
Juvenile Justice	1,166.....	19
Labor.....	81.....	7
Labor Relations Board Educational	13.....	2
Labor Relations Board State	20.....	2
Law Enforcement Training & Standards Bd.....	20.....	1
Medical District Commission	2.....	0
Military Affairs	129.....	3
Natural Resources	1,543.....	24
Pollution Control Board.....	19.....	2
Prisoner Review Board	20.....	0
Property Tax Appeal Board	22.....	1
Public Health.....	1,136.....	42
Revenue	2,094.....	70
State Fire Marshal	150.....	12
State Police	1,431.....	6
State Police Merit Board.....	5.....	1
State Retirement Systems	87.....	2
Transportation.....	2,469.....	0
Veterans' Affairs.....	1,116.....	7
Workers' Compensation Commission	171.....	10
TOTALS	50,411.....	821

B. Governing Rule - Jurisdiction B Exemptions

- a) Before a position shall qualify for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the position shall be directly responsible to:
 1. The Governor, or
 2. A departmental director or assistant director appointed by the Governor, or
 3. A board or commission appointed by the Governor, or
 4. The head of an agency created by Executive Order, or the director or assistant director of an agency carrying out statutory powers, whose offices are created by the Governor subject to legislative veto under Article V, Section 11, of the Constitution of 1970, which agency head, director, or assistant director may themselves be subject to exemption under Section 4d(3), or
 5. In an agency having a statutory assistant director, a deputy director exercising full line authority under the director for all operating entities of the agency, provided the statutory role of assistant director is vacant or is assigned clearly distinct and separate duties from the deputy director and as a colleague to him, or
 6. A line position organizationally located between the director and/or assistant director and a subordinate statutorily exempt position(s), provided the position proposed for exemption has line authority over the statutory exempt position(s), or
 7. The elected head of an independent agency in the executive, legislative, or judicial branch of government.
- b) If a position meets the above criterion, it must, in addition, be responsible for one or more of the following before it shall be approved as exempt:
 1. Directs programs defined by statute and/or departmental, board, or commission policy or possess significant authority when acting in the capacity of a director of programs to bind the agency.
 2. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board, or commission.
 3. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.

* * *

C. Requests for 4d(3) Exemption

- As to Item C, Executive Director Daniel Stralka reported that this request is for the Community Outreach Administrator in the Illinois Department of Public Health. This request was continued at last month's meeting for the agency to reconsider the position's responsibilities with regard to the agency's request for principal policy exemption. The agency has requested another month's continuance and Staff had no objection to this request.
- As to Items D and E, Executive Director Stralka reported that these requests are for the Chief of Information Technology Policy and Planning and the Enterprise Applications Manager for the Bureau of Communications and Computer Services. Staff informed the requesting agency of numerous questions with regard to these requests and also put it on notice that it would most likely recommend that they be continued due to the amount of information requested and the amount of time needed to research the viability of these requests. For these reasons, Staff recommended that these matters be continued.
- As to Item F, Executive Director Stralka reported that this request is for the Assistant Facility Director at the Shapiro Developmental Center, a position that reports to the facility's Director. As indicated on the agenda, this position is many levels removed from the agency Secretary. However, the facility's director is partially exempt under Section 4d(2) of the Personnel Code as the resident administrative head of a State charitable institution. This position has considerable principal policy implementation responsibilities when serving as the head of the institution in the absence of the facility director. Historically – going back to a time prior to the modern Personnel Code – resident heads of such institutions were exempt from civil service status. This was codified in the Personnel Code as the partial exemption under Section 4d(2). Rather than focusing on the reporting requirement, it was Staff's conclusion that this position closely parallels that of an Assistant Warden at a correctional facility. Wardens of correctional facilities are also 4d(2) exempt and since the 1980s, the Commission has approved 4d(3) status for two assistant wardens at each correctional facility under this justification. In fact, five years ago the Commission approved 4d(3) exemptions for two Assistant Facility Directors at two other developmental centers. Given all of this, it is the Staff recommendation to approve this request. Staff has notified the agency that it will be held to only one 4d(3) exempt assistant facility director at each developmental center, and when considering future exemption requests, this position should not be cited to justify requests for positions so far removed from the agency head unless it is for an assistant facility director.

Executive Director Stralka also informed the Commission that the incumbent was notified late yesterday of the exemption request and he had spoken with her by telephone. She indicated that given a choice she preferred her position remain a term appointment. However, Executive Director Stralka also noted that her previous term expired yesterday and she received a term renewal letter dated

October 14 for a new term to start today. The significance of this is that under the Personnel Rules, it was his interpretation that the incumbent will remain a term appointee with all its civil service protections until the expiration of her term on October 15, 2012. For all practical purposes, that is when the partial exemption will take effect if approved.

- As to Item G, Executive Director Stralka reported that this request is for the Chief Legal Advisor for the Department of Juvenile Justice, a position that reports to the director. This position essentially directs all legal and policy work for the agency and considering its responsibilities and the Commission’s past approvals of similar positions in other agencies, Staff recommended approval of this request.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO GRANT AND CONTINUE THE REQUESTS FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:

The following 4d(3) exemption requests were granted on October 16, 2008:

F. Illinois Department of Human Services

Position Number	40070-10-75-000-01-21
Position Title	Senior Public Service Administrator
Bureau/Division	Developmental Disability
Functional Title	Assistant Facility Director, Shapiro Developmental Center
Incumbent	Lynne Gund
Supervisor	Facility Director, who reports to the Deputy Director of Statewide Developmental Disability Facilities, who reports to the Director of Developmental Disabilities, who reports to the Administrator of Mental Health and Developmental Disability Services, who reports to the Assistant Secretary, who in turn reports to the Secretary
Location	Kankakee County

G. Illinois Department of Juvenile Justice

Position Number	40070-27-00-001-05-01
Position Title	Senior Public Service Administrator
Bureau/Division	Director’s Office
Functional Title	Chief Legal Advisor
Incumbent	None
Supervisor	Director
Location	Sangamon County

The following 4d(3) exemption requests were continued on October 16, 2008:

C. Illinois Department of Public Health

Position Number	37015-20-60-200-00-81
Position Title	Public Service Administrator
Bureau/Division	Office of Women's Health
Functional Title	Community Outreach Administrator
Incumbent	None
Supervisor	Deputy Director, Women's Health, who reports to the Director
Location	Cook County

D. Illinois Department of Central Management Services

Position Number	40070-37-10-000-10-01
Position Title	Senior Public Service Administrator
Bureau/Division	Bureau of Communications & Computer Services (BCCS)
Functional Title	Chief of Information Technology Policy & Planning for BCCS
Incumbent	None
Supervisor	Deputy Director of BCCS, who reports to the Director
Location	Cook County

E. Illinois Department of Central Management Services

Position Number	40070-37-12-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Bureau of Communications & Computer Services (BCCS)
Functional Title	Enterprise Applications Manager
Incumbent	None
Supervisor	Deputy Director of BCCS, who reports to the Director
Location	Sangamon County

V. CLASS SPECIFICATIONS

The following class titles were submitted for revision by the Director of Central Management Services:

Position Title:

A. Juvenile Justice Specialist (revise)

Analysis: Assistant Executive Director Barris reported that according to Central Management Service, this revision to the classification standard adds a reference to a training role for Juvenile Justice Specialists who provide training at a facility. Training and staff development is mentioned as part of the supervisory role for a Juvenile Justice

Specialist Supervisor, but a concern was raised that it might be misunderstood that non-supervisory staff training responsibilities were only intended for the higher, supervisory level, when the Specialist classification was developed to embrace a wide range of professional work assignments within a youth facility which involves care, security, rehabilitation and ultimately reaching the goal of integration of youth offenders back into the community. In addition, supportive roles of a non-supervisory nature involving participation in programs which augment and facilitate the provision of these services and measure outcomes are intended to be inclusive of this classification as well. And this is consistent with the expectation that professional staff perform a wider range of work tasks and skills, than would be expected of work requiring a less-developed range of training and skill.

Assistant Executive Director Barris reported that in the predecessor classifications to this class, the security function was defined by the Youth Supervisor 1. The Youth Supervisor 2 described the provision of training and rehabilitative services to youth offenders in addition to the security work role, although actual work assignments reportedly fell short of this defined level distinction, with the emphasis on safety and security. The Youth Supervisor 3 described responsibility for security, welfare, and development of all wards within a living unit, including such programmatic functions as directing programmatic functions and other activities. All positions and the work subsumed by these classifications were intended for the Juvenile Justice Specialist classification, with the intention that work disputes resulting from questions relating to work level distinctions for staff assignments could be minimized through the use of this broadened professional class.

Assistant Executive Director Barris indicated that after reviewing the range of job functions currently performed by the Juvenile Justice Specialist, this revision is in keeping with a more representative description of the range of professional staff functions that have been incorporated in the classification.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION ADOPTED 5-0 TO APPROVE THE REVISION OF THE FOLLOWING CLASS TITLE TO BE EFFECTIVE NOVEMBER 1, 2008:

A: Juvenile Justice Specialist (revise)

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 5-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.

Chairman Kolker informed the Commission that Respondent's attorney in the appeal of Dennis Marion from his discharge by the Illinois Department of Corrections had requested to respond orally to the Recommended Decision. This was necessary as the Respondent's attorney stated he received the Recommended Decision on October 14,

October 16, 2008

2008 even though it had been mailed by Commission Staff on October 3, 2008. After consideration, and the Petitioner's attorney indicating that she had no objection to this request and waiving the requirement in the Rules of the Civil Service Commission that such request be made at least five days prior to the Commission's meeting, it was the consensus of the Commission to allow the oral response. Both attorneys were teleconferenced and Respondent's attorney made a brief oral response to the Recommended Decision. Petitioner's attorney elected to stand on her previously filed written response.

VI. MOTION TO GO INTO EXECUTIVE SESSION

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE THE MOTION ADOPTED 5-0 TO HOLD AN EXECUTIVE SESSION PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 10:00 a.m.

PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; and Dan Flanagan, Illinois Department of Employment Security.

VIII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code, however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services' Consecutive Non-Merit Report.

Agency	8/31/08	9/30/08	9/30/07
Agriculture	3	2	6
Arts Council	1	0	0
Central Management Services	3	4	8
Children and Family Services	7	3	7
Criminal Justice Authority	1	0	0
Employment Security	7	7	0
Healthcare and Family Services	13	12	14
Historic Preservation	0	0	18
Human Services	3	5	3
Investment Board	1	1	0
Natural Resources	25	15	20
Property Tax Appeal Board	1	0	0
State Police	0	0	0
State Retirement Systems	1	1	0
Transportation	15	13	41
Veteran's Affairs	0	7	1
Workers' Compensation Commission	4	6	0
Totals	85	76	118

IX. INTERLOCUTORY APPEAL

DA-43-08

Employee	Jeanne D. Miller	Appeal Date	05/02/08
Agency	DHS	Decision Date	10/03/08
Type	Discharge	ALJ	Andrew Barris
Issue	Motion to Dismiss for no jurisdiction	Recommended Decision	Grant Motion to Dismiss

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED THAT THE ADMINISTRATIVE LAW JUDGE FOUND A QUESTION OF LAW, FACT, OR POLICY WHICH IF RESOLVED BY THE COMMISSION WOULD MATERIALLY ADVANCE THE RESOLUTION OF THE DISPUTE. THE COMMISSION FURTHER FINDS THAT, PRIOR TO FILING AN APPEAL WITH THE CIVIL SERVICE COMMISSION, JEANNE MILLER VOLUNTARILY FILED A GRIEVANCE REGARDING HER DISCHARGE PURSUANT TO THE APPLICABLE COLLECTIVE BARGAINING AGREEMENT, FILED A WRITTEN REBUTTAL IN HER DEFENSE DURING THE GRIEVANCE PROCESS AND THEN ATTENDED A HEARING ON THE GRIEVANCE. SECTION 1.130 OF THE RULES OF THE CIVIL SERVICE COMMISSION STATES THAT EMPLOYEES MAY APPEAL DISCIPLINARY ACTIONS EITHER THROUGH THE PROCEDURE SET FORTH IN THE AGREEMENT OR THROUGH THE COMMISSION BUT NOT BOTH. THEREFORE, JEANNE MILLER HAS WAIVED HER RIGHT TO APPEAL TO THE CIVIL SERVICE COMMISSION BECAUSE SHE PREVIOUSLY FILED AND PARTICIPATED IN THE PROCEDURES SET FORTH IN THE COLLECTIVE BARGAINING AGREEMENT. IN ACCORDANCE THEREWITH, THE MOTION TO DISMISS IS GRANTED.

KOLKER	PRESENT	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

X. PUBLICLY ANNOUNCED DECISION RESULTING FROM APPEAL

• DISCHARGE

DA-32-08

Employee	Dennis R. Marion	Appeal Date	01/22/08
Agency	DOC	Decision Date	10/03/08
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Conduct unbecoming	Recommended Decision	Charges are partially proven and do warrant discharge.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO MODIFY THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION TO THE EXTENT SET FORTH BELOW THAT THE WRITTEN CHARGES HAVE BEEN PROVEN INCLUDING CONSPIRACY TO COMMIT FRAUD IN THAT THE EVIDENCE INDICATES THAT OVERT ACTS IN FURTHERANCE OF THE AGREEMENT TO STEAL MARION'S TRUCK OCCURRED ON THE PART OF PAPANTONOPOULOS AND DIAZ AND THESE ACTS WERE PART OF A COMMON PLAN BETWEEN MARION AND PAPANTONOPOULOS TO ENGAGE IN THE THEFT OF MARION'S TRUCK, AND DO WARRANT DISCHARGE.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

XI. APPEAL TERMINATED WITHOUT DECISION ON THE MERITS

• DISMISSED

DA-6-09

Employee	Stacy L. Taylor	Appeal Date	7/31/08
Agency	DES	Decision Date	9/25/08
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Not certified employee	Recommended Decision	Dismissed; withdrawn

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER PETERSON, AND BY ROLL CALL VOTE OF 5-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION TO DISMISS THE TAYLOR APPEAL.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

October 16, 2008

XII. PROPOSED REVISIONS TO CIVIL SERVICE COMMISSION RULES

Assistant Executive Director Andrew Barris provided the Commissioners with a brief status report on the development of the proposed revisions to the Rules of the Civil Service Commission. After discussion, it was the consensus of the Commission to allow additional time for consideration and to continue this matter until next month.

XIII. FY 2008 ANNUAL REPORT

Executive Director Daniel Stralka provided the Commissioners with a brief synopsis of the proposed Annual Report. Chairman Kolker proposed minor revisions which were agreed to by the Commissioners.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 5-0 TO APPROVE THE FISCAL YEAR 2008 ANNUAL REPORT WITH MINOR CHANGES.

XIV. STAFF REPORT

Executive Director Daniel Stralka reported that:

- He made a presentation at the Personnel Managers meeting on September 30, 2008 regarding Civil Service Commission updates.
- The SECA campaign runs through November 14, 2008.
- Chairman Kolker and Executive Director Stralka met with the Illinois Labor Relations Board over unionization of 4d(3) positions.
- All Commission Staff were recently converted to Microsoft Office 2007.
- Governor's Office of Management & Budget has now approved our fiscal year 2009 spending plan after a meeting with Bob Greenlee and Gladys Taylor regarding Personal Services issues.
- All State employees enrolled in either the Quality Care Health Plan or a state-sponsored managed care plan are eligible to receive a free flu shot.
- Sandra Guppy submitted the fiscal year 2008 Public Accountability Report to the Comptroller.
- Group insurance benefit choice option period 2 will be October 27, 2008 through November 14, 2008. Effective date of changes elected during this period will begin January 1, 2009.

October 16, 2008

James P. Sledge, newly appointed Director of Central Management Services, arrived with Elizabeth Nicholson, Chief Operating Officer for Central Management Services. After introductions, Director Sledge spent several minutes discussing the challenges that await him in his new office. Chairman Kolker thanked the Director for taking the time to appear before the Commission.

XV. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on November 20, 2008 at 1:00 p.m. in the Commission's Springfield office.

XVI. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 10:30 A.M.